



**You have downloaded a document from  
RE-BUŚ  
repository of the University of Silesia in Katowice**

**Title:** Evolution of the Polish political regime in the period of democratic transition

**Author:** Rafał Glajcar

**Citation style:** Glajcar Rafał. (2014). Evolution of the Polish political regime in the period of democratic transition. "Studia Politicae Universitatis Silesiensis" (T. 13 (2014), s. 44-67).



Uznanie autorstwa - Użycie niekomercyjne - Bez utworów zależnych Polska - Licencja ta zezwala na rozpowszechnianie, przedstawianie i wykonywanie utworu jedynie w celach niekomercyjnych oraz pod warunkiem zachowania go w oryginalnej postaci (nie tworzenia utworów zależnych).



UNIwersYTET ŚLĄSKI  
W KATOWICACH



Biblioteka  
Uniwersytetu Śląskiego



Ministerstwo Nauki  
i Szkolnictwa Wyższego

Rafał Glajcar

## Evolution of the Polish political regime in the period of democratic transition

**Abstract:** Transition, which is the starting point for any democratic change, in the Polish political context constituted a period of development of institutional solutions, which set the direction for the evolution of the political regime *in sensu stricto* in the years to come. An analysis of the relationship between the parliament, the president and the government requires that a reference be made to the traditional political regime models, that is parliamentarism, presidentialism and semi-presidentialism. The functioning of either of these models assumes that a certain democratic minimum exists both in terms of a set of formal rules and political practice. Meanwhile, in the initial phase of the system change (from the Round Table to the first, fully competitive parliamentary elections in 1991), institutions characteristic for both democratic and authoritarian regimes functioned alongside each other. In these conditions, institutions restricted the political actors' freedom of action by creating the political framework. The period of democratic transition perfectly illustrates the influence of actors on the shaping of specific institutional solutions.

**Key words:** transition, political regime, parliament, president, government

### Introduction

Anniversaries are always good opportunities to draw up summaries, evaluations, and to review the impact of specific events on the course of social, political or economic processes. As time goes by, more and more new interpretations appear giving rise to different debates which are fuelled by the desire to arrive at the truth. It is impossible to understand the processes that form institutions within a democratic political regime, and then their impact on the different manifestations of its operation without knowing “the break-

through moment” and the process of transition from an undemocratic regime to democracy. In light of the above, taking into account a specific sequence of events of the past and submitting it to an analysis is not only appealing in a cognitive sense, but above all, it is necessary.

The 25 years that have passed from the breakthrough year of 1989 and the events which opened the path to democratic change in Central and Eastern Europe, make this the right moment to draw attention to selected specific solutions, which determined or restricted the institutional development in the subsequent stages of the process of system transformation. The article talks about the changes of the Polish political regime in the period of democratic transition. Such an approach to the issue requires additional explanation involving definition of the concepts of political regime and transition.

The multiple ways of understanding the concept of political regime, and the various circumstances in which it is applied, may be a significant limitation in the process of interpersonal communication. In trying to avoid such ambiguity, it should be pointed out that on the grounds of the science of politics, the term is axiologically neutral, which, however, does not change the fact that it has more than one meaning. The emerging definitions can be divided into two groups. The first consists of ways of comprehending the concept of political regime, which relate to the broad characteristics of political systems. For this purpose, the term political regime *in sensu largo* will be used. The second group, in turn, can include definitions which narrow the understanding of the political regime down to a specific aspect of the functioning of political systems. This gives us the opportunity to talk about the political regime *in sensu stricto*.

*In sensu largo*, the political regime can be defined as “a group of rules, values, behaviours, and relationships characterizing political life.”<sup>1</sup> This approach exposes both the normative and axiological aspects, as well as actual behaviours determining the political life of a given community. Such an approach allows for a variety of political regime classifications to be made, and the simplest, dichotomous division assumes the existence of democratic and undemocratic regimes. Confronting it with political reality, however, reveals its limited explanatory power, which consequently encourages many authors to create their own terminological proposals.<sup>2</sup> This certainly is not conducive to the universalisation of research on political regimes.

When analysing the second, narrower meaning of the political regime, its similarity of meaning to the term system of government, which is widely

<sup>1</sup> A. Antoszewski, R. Herbut: *Systemy polityczne współczesnej Europy*. Warszawa 2006, p. 168.

<sup>2</sup> Already in the mid-1990s, Larry Diamond had identified the existence of over 550 sub-types of democracy. See L. Diamond: “Is the Third Wave Over?” *Journal of Democracy* 1996, Vol. 7, No. 3, p. 21.

used by representatives of legal sciences, is noticeable. This is, however, not to say that this term is not used by people representing the science of politics and sociology. The emerging problems associated with defining the concept of system of government, as well as taking into account the specificities and the nature of research carried out within the framework of the individual disciplines, justify, within the field of political science the need to search for a concept that would, on the one hand, have an endemic nature, and, on the other hand, emphasize its specificity in the study of the relationship between the legislature and the executive. Such a concept is the political regime *in sensu stricto*. Therefore, in the remainder of the work, this concept will also incorporate the “normative and actual dependencies characterising the relations between the executive and legislative authorities.”<sup>3</sup> It stresses going beyond a strictly legal area of analysis and taking into consideration extralegal standards, as well as non-normative rules which determine the behaviour, actions and political decisions.<sup>4</sup> Apart from that, any analysis of the political regime *in sensu stricto* is, as opposed to the constitutionalists’ research of government of a dynamic, rather than static, nature. It requires not only political practice and the changing situational context to be taken into account, but also exposure of the relations on the behavioural level. Furthermore, a description and clarification of the relationship between the executive and legislature using a dynamic approach are possible only when they are shown in the context of political competition, understood as both “political contestability” and “situational competitiveness.”<sup>5</sup> In this way one can build a real picture of the political regime, and not only reproduce its benchmark, whose code is contained in the acts with the strongest legal force.

In this study, attention will be focused on the political regime in the strict sense. This is neither an easy nor an obvious task, especially since extracting traditional models of political regimes (parliamentarism, presidentialism, semi-presidentialism), which are the point of reference for the description and evaluation of the relationship between the executive and the legislature, assumes the existence on both formal grounds and in political reality, of a specific democratic minimum, which in the initial phase of system change is not always clearly observed.

The temporal frames of the analysis are, in turn, defined by the concept of transition. Taking into account the propositions presented by Guillermo

<sup>3</sup> A. Antoszewski, R. Herbut: *Systemy polityczne współczesnej...*, pp. 309—310.

<sup>4</sup> K.A. Wojtaszczyk: “Systemy polityczne.” In: *Wprowadzenie do nauki o państwie i polityce*. Eds. B. Szmulik, M. Żmigrodzki. Lublin 2002, p. 361.

<sup>5</sup> K. Strøm: “Democracy as Political Competition.” *American Behavioral Scientist* 1992, Vol. 35, No. 45, pp. 375—396.

O'Donnell and Philippe C. Schmitter<sup>6</sup> and by applying it to Polish conditions, this period started with the launch of the process of the decomposition of the authoritarian regime (the Round Table) and lasted until the installation of the basic democratic mechanisms (the first, fully-competitive parliamentary elections in 1991). What is characteristic of this period is the co-occurrence of institutions typical both for an authoritarian regime and for democratic regimes. At the same time, Tomasz Krawczyk draws attention to the “duo-political” nature of the political setup. He pointed to the complicity of part of the communist elites and parts of the existing anti-regime opposition in the exercise of state power. The progressing fragmentation of both camps influenced the replacement of this setup with an order based on political pluralism, which opened the way for the consolidation of the democratic rules of play.<sup>7</sup> In the end, a feature of the period of transition was the uncertainty as to the effects of the change. As James G. March and Johan P. Olsen wrote, “Change cannot be controlled precisely [...] there are frequently multiple, not necessarily consistent, intentions, [...] intentions are often ambiguous [...] structure of values and intentions is shaped, interpreted, and created during the course of the change in the institution.”<sup>8</sup> At the same time, as Donald L. Horowitz emphasized, not without significance is the randomness of many institutional choices made by the political actors in the phase of transition.<sup>9</sup>

Transition, which is the starting point for democratic change, was a period of development of institutional arrangements, which set the direction of the evolution of the political regime *in sensu stricto* for the years to come. At the same time it is worth drawing particular attention to the relationships between the institutions and political actors. On the one hand, institutions are a certain kind of constraint for the political actors, creating a political framework in which the latter take actions and make political decisions. On the other hand, it is the period of democratic transition which perfectly shows the influence of political actors in shaping specific institutional solutions.<sup>10</sup>

---

<sup>6</sup> G. O'Donnell, Ph.C. Schmitter: *Transitions from Authoritarian Rule. Tentative Conclusions about Uncertain Democracies*. Baltimore—London 1986, p. 6.

<sup>7</sup> T. Krawczyk: *Stosunki między rządem i opozycją w wybranych państwach Europy*. Toruń 2005, pp. 251—254.

<sup>8</sup> J.G. March, J.P. Olsen: *Rediscovering Institutions: The Organisational Basis of Politics*. New York 1989, pp. 65—66.

<sup>9</sup> L. Diamond, F. Fukuyama, D.L. Horowitz, M.F. Plattner: “Discussion. Reconsidering the Transition Paradigm.” *Journal of Democracy* 2014, Vol. 25, No. 1, p. 89.

<sup>10</sup> A. Krouwel, B. Verbeek: “Instytucje jako pola walki: demokratyczne konsekwencje budowania instytucji w systemach postkomunistycznych.” In: *Demokracja w Europie Środkowej, 1989—99. Studia historyczne i porównawcze*. Ed. J. Miklaszewska. Kraków 2001, p. 334.

## The constitutional foundations of the political regime *in sensu stricto* in the period of democratic transition

The Round Table talks were of key importance to changes of the institutional foundation of the political regime in Poland. The changes in the system of state authorities declared in the final agreements, were immediately sanctioned on the basis of the law. This was reflected in the amendment to the Constitution of the People's Republic of Poland of 7 April 1989<sup>11</sup> and in the Sejm<sup>12</sup> and Senate<sup>13</sup> election laws which had a decisive impact on the functioning of the state for the four consecutive years — this is how long the agreements of the Round Table were supposed to be implemented.

The new, formal rules did not mean automatic entry onto the path of democratic development, all the more that Poland was still referred to as a socialist state, in which power belonged to the “working people of the towns and villages.” Apart from that, the principle of representation was not duly observed, though signs of change in this regard were visible. The principle incorporated the rules, on the basis of which elections to the Senate and partly to the Sejm were to be carried out. In the first case, elections to the Senate were supposed to be conducted on the basis of free competition, which would result in the Senate being recognised as reflecting the will of the citizens. In turn, the future Sejm could be representative only with regard to 161 of the available 460 seats, which was the result of the coalition-government giving away 35% of the seats for free competition at the Round Table. Therefore the Sejm could not be fully representative in nature, if for almost 2/3 of the seats, the voters had only the possibility to decide on its personal composition, while the political nature of the Sejm was settled on the basis of pre-election agreements.

Change in the ways of creating the chambers of parliament point to a certain opening towards the implementation of the principle of political pluralism. After all, voters were given the right to put forward candidates for MPs, senators and members of national councils. This was a one-of-a-kind *novum*, as this right had so far been bestowed upon citizens associated in political and social organizations, which given that a permit was needed to establish an association, ruled out the possibility of using a passive right to vote by

---

<sup>11</sup> Ustawa z dnia 7 kwietnia 1989 r. o zmianie Konstytucji Polskiej Rzeczypospolitej Ludowej. *Dziennik Ustaw* 1989, no. 19, item 101.

<sup>12</sup> Ustawa z dnia 7 kwietnia 1989 r. — Ordynacja wyborcza do Sejmu Polskiej Rzeczypospolitej Ludowej X kadencji, na lata 1989—1993. *Dziennik Ustaw* 1989, no. 19, item 102.

<sup>13</sup> Ustawa z dnia 7 kwietnia 1989 r. — Ordynacja wyborcza do Senatu Polskiej Rzeczypospolitej Ludowej. *Dziennik Ustaw* 1989, no. 19, item 103.



the opposition-minded citizens. New rules provided citizens with real rights to put forward candidates, who represented the anti-regime opposition. Of course, the actual potential of this privilege was to be verified in electoral practice, nevertheless, in this respect we can speak of at least a partial recognition of political pluralism. Channels of access to power for groups which were independent of the ruling regime were to be partially unblocked, however, at the same time, the Polish United Workers' Party (PZPR) was still referred to as the "main political power," and the platform for the cooperation of legally functioning organisations was to remain with the Patriotic Movement for National Rebirth (PRON).

A change in the area of the constitutional system of state authorities led to a challenging of the principle of unity and coherence of the power of the state. At the same time, a clear reference to the principle of separation of powers was missing. As a consequence, this principle, on the grounds of the regime, the foundations of which were formed in 1989, should be treated as something that was only being formed, and not as something that was decreed. This fact, in conjunction with the still existing undemocratic mechanisms, makes it difficult to characterise the constitutional relations between the parliament, the president and the government on the basis of traditional, democratic political regime models. Knowledge of the dynamics of change that occurred after 7 April 1989, makes it easier to find similarities with these models. This applies to both the constitutional sphere, as well as to political practice. Taking into account the principle of separation of powers, which is the basis for distinguishing between the executive and legislature,<sup>14</sup> the

---

<sup>14</sup> A reference to the idea of "separation of powers" is primarily a reference to the concept of Montesquieu, who observed that: "When the legislative and executive powers are united in the same person, or in the same body of magistrates, there can be no liberty; because apprehensions may arise, lest the same monarch or senate should enact tyrannical laws, to execute them in a tyrannical manner. Again, there is no liberty, if the judiciary power be not separated from the legislative and executive. Were it joined with the legislative, the life and liberty of the subject would be exposed to arbitrary control; for the judge would be then the legislator. Were it joined to the executive power, the judge might behave with violence and oppression" (Ch. Montesquieu: *The Spirit of Laws. Volume: I*. New York 1900, pp. 151—152). His observations thus lead to a distinction between the principle of the "separation of powers" and the principle of the unity of state power. As a result, "separation of powers" refers to: 1) separation of three legal spheres of a state's activity: lawmaking, administration and justice (the material aspect of the separation), 2) division of the state apparatus into three groups of bodies: legislative, administrative and judicial (objective aspect of the separation), 3) organisational and personal separation of the groups of bodies, based on the principle of their relative equivalence and independence, 4) assigning each group of bodies their own tasks to be carried out (legal sphere of action), with a relatively small possibility of interference in the activities of the other groups. See: R.M. Małajny: *Trzy teorie podzielonej władzy*. Katowice 2003, p. 160. At the same time, it should be noted that in specific political regimes, the principle may be realized in a "rigorous" way (then the use of the term "separa-

change in the Constitution of the People's Republic of Poland of 29 December 1989 turned out to be extremely important.<sup>15</sup> It introduced the principle of a democratic state of law, from which the principle of separation of powers as a necessary consequence of the first principle can be derived.<sup>16</sup> In this way, the separation of powers found its constitutional legitimacy, which was largely proof of the legal sanctioning of certain facts in the sphere of political practice.

In characterising the political regime in the strict sense on the basis of constitutional rules, which are a legal expression of the legitimisation of the Round Table Agreements, we must remember not only about their temporary nature, but above all their institutional incoherence.<sup>17</sup> The lack of a clear connection to the principle of separation of powers made it difficult to qualify the specific authorities to one of the branches of power identified by Montesquieu. However, if we were tempted to undertake such a step on the grounds of the assumption that the separation of powers was only coming to be, it would be most obvious to recognise the Sejm and the Senate as legislative authorities. The structure of the executive, however, was not so clear-cut. While the government could be considered as an executive authority, this was not so clear in respect of the office of the president. Knowing, however, that ultimately the president was recognized as an authority of the executive, the presumption that a dual executive has been evolving since 1989 applies in the remainder of the article.<sup>18</sup>

---

tion of powers" is fully justified) or a "liberal" way (then "division of powers" becomes more appropriate). The term "separation of powers" will be used in the remainder of this article. It will only serve to highlight the system's departure from the principle of unity of state power pursued in the PRL (the People's Republic of Poland).

<sup>15</sup> Ustawa z dnia 29 grudnia 1989 r. o zmianie Konstytucji Polskiej Rzeczypospolitej Ludowej. *Dziennik Ustaw* 1989, No. 75, item 444.

<sup>16</sup> W. Sokolewicz: "Zasada podziału władz w prawie i orzecznictwie konstytucyjnym Rzeczypospolitej Polskiej." In: *Konstytucja i gwarancje jej przestrzegania. Księga pamiątkowa ku czci prof. Janiny Zakrzewskiej*. Eds. J. Trzeciński, A. Jankiewicz. Warszawa 1996, pp. 179—180.

<sup>17</sup> A. Antoszewski: "Instytucje władzy ustawodawczej i wykonawczej." In: *Polityka w Polsce w latach 90. Wybrane problemy*. Eds. A. Antoszewski, R. Herbut. Wrocław 1999, p. 95.

<sup>18</sup> Iain McMenamin draws attention to the fact that the agreements of the Round Table, though they did not create an institutional structure typical for a particular democratic political regime model, led nevertheless to the creation of a dualistic executive. See I. McMenamin: "Semi-presidentialism and democratisation in Poland." In: *Semi-presidentialism in Central and Eastern Europe*. Eds. R. Elgie, S. Moestrup. Manchester 2008, p. 121. Based on the Polish literature, for example Paweł Sarnecki claims that the revised constitution of April 1989 "created" a dualistic executive. See P. Sarnecki: "Ustrój polityczny Polski po wejściu w życie ustawy konstytucyjnej z 7 kwietnia 1989 r." *Przegląd Sejmowy* 2009, No. 3 (92), pp. 25—26. See also: B. Opaliński: *Rozdzielenie kompetencji władzy wykonaw-*



The rejection of a monistic model of the executive lead to a situation where traditional models of democratic political regime, which may be taken into account as a reference point for the analysis of the solutions adopted on the basis of the constitution amended in April 1989, should be limited to parliamentarism and semi-presidentialism. This is not to say that a conscious reference was made to one of these models. The objective remains to confront the solutions introduced with the model assumptions.

Focusing exclusively on the institutional elements of the analysis, parliamentarism can be characterized by the following features: 1) a collegial nature of the executive, 2) dependency between the functioning of the government and the will of the parliament, before which the government is held politically accountable, 3) the head of state does not create state policy, but has a representative and ceremonial function, 4) the executive has privileges which balance the powers of parliament (in substance with regard to the scope of tasks assigned, while temporally — with regard to the period in which powers have been handed over to the legislative). In turn, semi-presidentialism is an example of a model which is the most internally differentiated in terms of institutional arrangements. As stated by Cindy Skach, semi-presidentialism is an “undertheorised constitutional type,”<sup>19</sup> which has not been thoroughly analysed yet in the area of the theory of political regimes. Aware of the differences between the empirical forms of its manifestation, which generates a multiplicity of different characteristics semi-presidentialism may be defined by,<sup>20</sup> four constitutional features of this model can be identified: 1) election of the president in a popular vote for a constitutionally fixed term, 2) dualism of the executive, which is divided between the president and the government headed by the prime minister, 3) the government is held politically accountable before the parliament, but at the same time, it is possible to execute the rule of the political accountability of the government before the president, 4) the president has independent executive powers and/or powers of political arbitration, enabling him to create or co-create state policy. Looking at the last of these characteristics in the context of the dualistic structure of the executive, it should be assumed that, in the framework of semi-presidentialism,

---

*cznej między Prezydenta RP oraz Radę Ministrów na tle Konstytucji Rzeczypospolitej Polskiej z 1997 roku.* Warszawa 2012, pp. 33—34.

<sup>19</sup> C. Skach: “The ‘newest’ separation of powers: Semipresidentialism.” *International Journal of Constitutional Law* 2007, Vol. 5, No. 1, p. 93.

<sup>20</sup> See for instance: M. Duverger: “A New Political System Model: Semi-Presidential Government.” *European Journal of Political Research* 1980, Vol. 8, No. 2, p. 166; M.S. Shugart, J.M. Carey: *Presidents and Assemblies. Constitutional Design and Electoral Dynamics*. New York 1992, pp. 23—27; A. Antoszewski, R. Herbut: *Systemy polityczne...*, p. 324; R. Elgie: “Semi-Presidentialism: Concepts, Consequences and Contesting Explanations.” *Political Studies Review* 2004, Vol. 2, p. 317.

there is a possibility of different balance setups and a shift of power in favour of the president or of the prime minister as the head of government, wherein each of them retains "autonomy potential."<sup>21</sup>

The characteristics of both of the models leave no doubt that the key to their distinction is how the executive (government) is created and how political accountability is executed. In this respect, after 1989, two opposing trends could be observed. On the one hand, solutions which are characteristic for the parliamentary political regime were adopted, under which the establishment and functioning of the government depends on the will of parliament. On the other hand, the president was assigned powers in the field of government formation, thus limiting the independence of parliament in this area, which is rather proof of a concentration of power within the executive.

On the grounds of the Constitution of the People's Republic of Poland in its amended version of 7 April 1989, two entities were involved in the process of government appointment: the Sejm and the president. In this way, the ruling administration provided itself with the possibility to determine the political and personal composition of the government. The PZPR, together with its allied groups, based on the pre-election arrangements, was guaranteed 65% of the seats in the Sejm, which, in its assumptions, was mathematically sufficient to maintain power not only in parliament, but also in government.

Looking at the appointment of the government from the perspective of the second body involved in the process, that is the president, it is also observed that the mechanisms were created to guarantee the current administration maintenance of political control over the government. After all, restitution of the office of the president was done with the belief that it would be taken over by a representative of the ruling regime. This was to be guaranteed by the adopted method of election of the head of state. It appears, therefore, that the legal solutions introduced on 7 April 1989, were meant to ensure that the ruling administration, under the guidance of the PZPR, maintained political control over the majority in the Sejm and the office of president, and, just as importantly, was to guarantee such control over the government as well. Therefore, everything was arranged in such a way that, provided the provisions of the constitution and the electoral law to the Sejm of that time were strictly followed, alternation of power was impossible.<sup>22</sup> As a result, a system and political environment was formed, in which certain democratic solutions began to appear among the still existing key elements of an authoritarian regime.<sup>23</sup>

<sup>21</sup> G. Sartori: *Comparative Constitutional Engineering. An Inquiry into Structures, Incentives and Outcomes*. New York 1997, pp. 131—132.

<sup>22</sup> J. Skórzyński: *Rewolucja Okrągłego Stołu*. Kraków 2009, p. 348.

<sup>23</sup> T. Słomka: "Socjalistyczna demokracja parlamentarna: granice porozumienia ustrojowego w 1989 r." In: *Czas próby. Polski przełom polityczny roku 1989*. Eds. A. Materska-Sosnowska, T. Słomka. *Studia Politologiczne*. Vol. 15. Warszawa 2009, pp. 26—27.

The procedure for the appointment of government, according to April's amendment, proceeded in two stages. Election was first made of the prime minister then of the entire government. A characteristic element of the solutions adopted was giving the president the task of indicating the person who would function as the head of government. The head of state, in fact, had the exclusive right to request the Sejm to appoint the prime minister. This meant that the candidate for the post of prime minister had to have the confidence of both the president and the Sejm. The latter, of course, did not have to accept the "presidential candidate," but this only resulted in a repeat of the entire procedure from the beginning. The president could indicate the same or another person, and was not bound by any formal restrictions in this respect. The head of state had a constitutionally guaranteed influence not only on the appointment of the prime minister, but also of the other members of government. This is because parliament appointed the council of ministers or the individual members of the government at the request of the prime minister, "which was previously consulted with the president." Therefore, the head of state not only had to be consulted in respect of the composition of government, but also had a real impact on the selection of candidates for ministerial posts. A lack of agreement between the prime minister and the president would make it impossible to submit an appropriate request to the Sejm. This situation was to be alleviated by the creation of a dependency between the prime minister and the president by way of the above described appointment of the head of government. In the adopted formal and legal solutions, an important element strengthening the position of the executive in relation to the Sejm, and, above all, the ruling potential of the president, can be observed. If the Sejm failed to appoint a government for three consecutive months, the head of state could dissolve the parliament. Thus, if we compare the solutions adopted in 1989 to a traditional model of political regime, the conclusion is that they were akin to those characteristic of a presidential-parliamentary version of semi-presidentialism as per the concept of Matthew Soberg Shugart and John M. Carey.<sup>24</sup>

With regard to the issue of the political accountability of the government, at the very beginning of its appointment it was evident that the prime minister, the government and individual ministers had to have the confidence of the Sejm and the president. The Sejm was approved by a vote of confidence. With respect to the president, the show of confidence took the form of a request to appoint the prime minister and a request of the prime minister to appoint ministers, an essential element of which was the indication that the candidature or candidatures have also been approved by the president. With regard to the latter issue, consideration should be given to the vital role of the

---

<sup>24</sup> M.S. Shugart, J.M. Carey: *Presidents and Assemblies...*, pp. 24—26.

prime minister in defining the composition of government, although at the same time it cannot be forgotten that the head of government had to, in principle, have the approval of the head of state. This, in turn, led to the expectation that there would be no substantial disagreement between the president and the prime minister as to the stated composition.

By analysing the issue of the accountability of government, attention needs to be drawn to the issue of its dismissal. As such, it is not so much about the confidence that is given to government upon its inception, but about holding it accountable for concrete actions. In this situation, we may speak about the essence of political accountability, which involves an assessment of the appropriateness, effectiveness, and utility of the actions taken. On the basis of the constitution amended in April 1989, it was decided that “the cabinet is aware of its actions and the Sejm holds it accountable for its actions” (article 38, section 2). A further consequence of this was vesting the lower chamber of parliament with the power to dismiss the government or its individual members, which meant the acceptance of the concept of collective and individual political accountability of the executive before parliament. At this point we can see that these provisions fit in the framework of the parliamentary model of political regime. In addition, however, the legislator also arranged for the president to be able to submit a motion to the Sejm to dismiss the prime minister. Although the last body to determine the fate of the prime minister, who has lost the support of the head of state, was to be the Sejm, the president’s authorities described above could have been understood as an opportunity for him to make a vote of no-confidence against the head of government. Unresolved, however, remained the question of what to do in a situation where the position of the Sejm and the president on the issue of the prime minister’s dismissal would be divergent. The issue revealed the ambiguity of the constitutional provisions, which were created in a specific context and with a view that the administration, led by the PZPR, would maintain control over three key state bodies: the Sejm, the government and the president. Failing to realize that the political scenario may change, the enormous potential of the adopted solutions to generate conflict were overlooked. The fact that the described issues of political accountability of the government concerned the relationship between three, and not two bodies, is evidence that “a dual chains of legitimacy, command and responsibility” was created.<sup>25</sup> This, in turn, proves that the adopted solutions were more in line with those of the semi-presidential model rather than of the parliamentary political regime.

---

<sup>25</sup> Y.-Sh. Wu: *Semi-Presidentialism and Nascent Democracies as a Research Agenda*. Paper presented at the 20th World Congress of International Political Science Association, Fukuoka, July 9—12, 2006, p. 3 [[http://paperroom.ipsa.org/papers/paper\\_5297.pdf](http://paperroom.ipsa.org/papers/paper_5297.pdf) (accessed 15.5.2014)].

Taking into account the wide range of powers conferred on the president by the amended constitution of April 1989, of particular importance remains the issue of clearing it of the decisions it has taken. This, in turn immediately draws attention to the issue of countersigning of presidential acts or a lack thereof. The scope of the countersignature is a key factor in the qualification of a system to a democratic model of political regime. The wider its scope, the weaker the powers of the president. Its lack, in turn, in a unique way strengthens the potential power of the president, especially if at the same time, the scope of his competences is significant. Finally, the issue of countersigning presidential acts was marginalized. Although article 32f, section 2 of the revised constitution of the People's Republic of Poland gave the cabinet the authority to countersign "acts of the president of significant relevance," nevertheless, the scope of the countersignature was to be specified on the statutory level. The fact that a relevant act in this respect had not appeared by the time the so-called Small Constitution was adopted in 1992, meant that the institution of the countersignature simply did not function in the years 1989—1992.

The lack of formalized procedures to enforce political accountability of the president in conjunction with a wide range of prerogatives granted to him, opened before the institution the opportunity to actively participate in the creation of public policy. The elimination of situations in which part or all of the presidential acts were covered by countersignature meant that conditions for a strong presidential system were created, which went beyond the typical solutions for a parliamentary regime. By treating the countersignature as an institution setting out the sphere of the common activities of the president and the government, it is concluded that the solutions adopted opened before the head of state the opportunity to become independent from the government.<sup>26</sup> Taking into account how the constitutional mechanism of creating the government looked, and most importantly, the kind of role the president played in this respect, his potential superiority over the second body of the executive became clear. Another option which increased the likelihood of the dominance of the president over the government, was the form of cooperation between both the authorities which was institutionalised by the amended constitution, and which took the form of government meetings led by the head of state. In accordance with the constitution, the president could convene such meetings in "matters of utmost importance." In practice, whether the matter was in fact relevant or not was arbitrarily decided by the president. One may even go further and claim that in the conditions of profound political, economic, social change to the foundations of the functioning of the political

---

<sup>26</sup> M. Kruk: "System rządów w Konstytucji Rzeczypospolitej Polskiej z 2 kwietnia 1997 r." In: *Ustrój polityczny Rzeczypospolitej Polskiej w nowej Konstytucji z 2 kwietnia 1997 roku*. Eds. W. Skrzydło, R. Mojak. Lublin 1998, p. 44.

system which had been taking place, any matter could be attributed a unique value. It appears, then, that the *de facto* presidential right to convene government meetings and lead them, was not in any way restricted. Therefore, there appeared a natural incentive for the permanent participation of the president in dealing with current political issues. In view of the fact that the government, which presided under the leadership of the president could make binding decisions and was not only a consultative body, the potential power of the president and his position inside the dualistic executive had been significantly strengthened.

The model of the political regime reflected in the provisions of the constitution of the People's Republic of Poland, following its amendment in April 1989, had no counterpart in the democratic world. The constitutional standard of the relationship between the legislature and the executive and of the executive itself, which was of a dualistic nature, had an absolutely original, unique character, determined primarily by the conditions, in which it was created.

The institutional setup formed on the basis of the amended constitution of April 1989 gave the president the opportunity to dominate over the government, however, the relations between the head of state and the parliament revealed, more than anything else, the authoritarian potential of the president, situating the system away from the semi-presidential model with regard to the relations between the legislature and the executive, and bringing it into the grey zone towards the fringes of the democratic regime.

The powers of the president, which he could use to influence the functioning of the parliament, were located in two zones. The first one concerned the utilisation of the primary function of the parliament, namely that of passing legislation. The second one dealt with the president's right to exert direct influence over parliament for the period in which it has been granted powers. With regard to the legislative process, attention needs to be drawn first and foremost to the right of legislative initiative and the power of veto the president was vested with.

The right of initiative assigned to the president was actually a result of the dissolution of the State Council, which had previously held the same power. Part of its authorities was to be taken over by the president, and they included the right to submit draft bills. In spite of its accidental, some might say, genesis, the meaning of this prerogative should not be underestimated, especially since its scope was not, in principle, restricted (the constitution only said that the draft budget and the socio-economic plan for the consecutive several years period was to be presented by the government). In this way, legislative initiative can be seen as a significant argument in favour of the president's involvement in the implementation of the existing policy of the state in that it provided him with the possibility of having a direct influence on shaping the political agenda. As a result, the president became a potential rival of the



government that was responsible for running the policy of the state. Presidential legislative initiative can also be perceived as a potential source of conflict within the executive,<sup>27</sup> though due to the creation of the institutional system, whose purpose was to guarantee the ruling administration maintenance of power, this did not become an issue in the period of transition.

The authoritative potential was even more visible in the president's veto power. The president, through his right of veto, had the power to suspend all motions. It could only be overruled by a 2/3 majority of the Sejm. The meaning of this prerogative should be analysed in the context of the setup of political forces, which was partially created in the framework of the Round Table arrangements. Considering the fact that in the future Sejm, 173 places were guaranteed to the representatives of the PZPR, and taking into account the fact that a representative of this party was to become president, it was unlikely that a veto of the head of state would be rejected. It was therefore a kind of "safety valve" for the ruling camp against the possible passing by the parliament of laws threatening the essential interests of the ruling party, which focused mainly on staying in power. Consequently, it cannot be seen as something that would balance power. The presidential veto, having its origins in a bid to achieve vested political interests, was not intended to form part of a coherent vision of the democratic institutional system.

A particularly undemocratic feature of the system were the circumstances in which the president could use his optional right to dissolve parliament before the end of the constitutionally specified term. The constitution pointed to three circumstances, in which the president could reach for the tool which deeply interfered in the functioning of parliament. First, this was possible if the Sejm was not able to appoint a government for three consecutive months. In principle, this solution should not have stirred too much emotion, since the inability to appoint a cabinet, given the fact that the primary authority of the executive had to have the confidence of parliament (the Sejm), would be indicative of a political crisis. Its prolongation, in turn, was not justified, and submitting to the will of the sovereign could turn out to be the best way to solve the political deadlock. However, taking into account the president's influence over the shape of the cabinet, one may come to imagine a situation in which the head of state deliberately prevents the establishment of government (e.g. the prime minister in consultation with the president could choose the candidates for ministers, most of whom the majority in the Sejm would not accept) which finally, after a period of three months would give the opportunity to dissolve parliament. Of course a lot in this regard depended on the behavioural aspects of the political leadership of the president. How-

---

<sup>27</sup> M. Kruk: "Prawo inicjatywy ustawodawczej w nowej Konstytucji RP." *Przegląd Sejmowy* 1998, No. 2(25), p. 21.

ever, the institutional deficit in safeguards protecting against the abuse of power by the head of state was equally apparent.

The president could also decide for a pre-term dissolution of parliament if within three months it did not pass a national socio-economic plan or a budget act. Despite the imprecision of the relevant constitutional provisions, this solution, in principle, did not cause much controversy.

The two ways of dissolving parliament described above, taking into account the comments provided, are rather typical. The third one, in turn, is not. This prerogative did not provide a final solution to a crisis situation and in certain circumstances, could trigger a crisis itself. It was not, in fact, intended as an element of a balancing of powers, but was rather meant to be a weapon, allowing the president to compete effectively with a possibly rival parliament.<sup>28</sup> The president could dissolve the Sejm (and at the same time the Senate), if it passed a law or adopted a resolution which would impede the head of state in his execution of the constitutional powers referred to in article 32, section 2 which were vested in him. Three functions of the head of state derive from the cited article of the constitution: 1) guardian of the constitution, 2) guardian of the sovereignty and security of the state and its territorial integrity, 3) guarantor of international political and military alliances. The president could, therefore, by making a subjective assessment of the effects of the decisions of the parliament, decide to dissolve it. The head of state had thus the possibility to provide a definitive solution to a dispute between political institutions, which he was a party of. This solution was the one which probably best reflected the president's role of guarantor of maintaining the socialist nature of the state and its remaining in the old political and military alliances.

In considering the relationships between the parliament, the president and the government on the grounds of the revised constitution of 7 April 1989, one may find a certain hidden democratic potential mixed into features which are common for an authoritarian regime. The adopted procedures and created mechanisms pointed to the fact that the constitutive features of parliamentarism and semi-presidentialism were intertwined. The actual evolution and crystallization of a particular model of political regime as understood in the strict sense, were to be settled by the depth and pace of further democratic change and by the evolution of the actual relationships between the various state bodies, which were shaped mainly by political competition.

---

<sup>28</sup> R. Glajcar: "Relacje prezydenta z organami władzy ustawodawczej." In: *Prezydent w Polsce po 1989 r., studium politologiczne*. Eds. R. Glajcar, M. Migalski. Warszawa 2006, pp. 71—72.

## Political regime *in sensu stricto* in action

The result of the parliamentary elections of June 1989 signified the actual reversal of the political setup, which was agreed at the Round Table. The formal 65%/35% division of seats in Sejm lost importance in view of the fact that the distribution of votes of support was the opposite of what the political structure of the Sejm expressed. Society clearly indicated that it was the representatives of the regime opposition who should stand at the forefront of the transformation process. At the same time it questioned the existing arrangement of political forces. The level of involvement of the citizens significantly revised the relations between the political actors, which in turn was reflected in the change of relations between the bodies of the executive and legislature on the grounds of political practice.

The June elections showed how reality can undermine the arrangements made, while the transitional model, that was to be carried out, turned out to be secondary in light of political fact.<sup>29</sup> Given that the political composition of the chambers of parliament were to ensure the PZPR freedom to choose the president, it should be noted that on 18 June 1989, the citizens ultimately made everybody understand that the party which had so far played a hegemonic role, was slowly beginning to lose ground. The election of Wojciech Jaruzelski as the president of the People's Republic of Poland, a fact which was not entered into any official documents, but one that was agreed upon at the Round Table, came into question. Execution of a different scenario to that which was agreed, would significantly violate the agreement. After all, the pursuit of maximum empowerment of the position of president by the PZPR was done knowing that this office would go to Wojciech Jaruzelski.

Finally, on 19 July, the National Assembly elected the president of the People's Republic of Poland. The results of the election pointed to a progressive disintegration of the ruling camp. Two hundred and ninety nine seats, which the PZPR and its allied groups had in the National Assembly, turned out to be an insufficient guarantee that Wojciech Jaruzelski would be selected as the head of state. Only 268 deputies of the ruling camp decided to support this candidacy. In the face of the internal problems of the ruling regime camp, the election of Wojciech Jaruzelski as the head of state depended on the position of members of the Civic Parliamentary Club. Eleven of them did not take part in the vote, and seven casted invalid votes, reducing in this way the threshold of support necessary for the election of Wojciech Jaruzelski. Eventually, General Jaruzelski received one vote more than the minimum

---

<sup>29</sup> P. Codogni: *Wybory czerwcowe 1989 roku. U progu przemiany ustrojowej*. Warszawa 2012, p. 320.

required. Both the result of the vote as expressed in numbers and the circumstances surrounding it, left no doubt as to the weakness of the authority, which President Wojciech Jaruzelski had.

The course of the presidential elections in 1989 confirmed that political life had its own momentum, which remained at odds (at least partially) with the arrangements developed a few months earlier at the Round Table negotiations and which were expressed as formal rules in the revised constitution of 7 April 1989. It turned out that even a gradual introduction of democratic rules of the game carries with it some uncertainty and proved that not everything can be planned in advance.<sup>30</sup> Both presidential and parliamentary elections highlighted the importance of the uncertainties relating to the results of the election. These, in turn, inspired a series of questions about stability and the real importance of the rules on which the mutual relations between the parliament, president and government were based.

A complementation of the process of creating national authorities, whose mutual relations define the nature of the political regime as understood in the strict sense, was the appointment of the government of Tadeusz Mazowiecki. Parliamentary and presidential elections did not formally deprive the PZPR of its powers, though their results clearly indicated that the legitimacy for this political formation to lead reform was challenged by society. The appointment of a government, which was headed for the first time in several decades by a politician from outside the hegemonic party, meant that the speed of the changes agreed at the Round Table, was significantly accelerated. This event marked the actual seizure of power by the regime opposition, which, in turn, was tantamount to taking over responsibility for the democratisation process.

It turned out that the president with a weak mandate, was *de facto* deprived of the possibility to prevent these tendencies which were harmful for him and his political camp from taking place. As a consequence, he was not able to stop the pro-democratic changes from happening. This meant that the potentially strong president, was in fact weak. The authoritarian nature of power hidden in the prerogatives vested in him was weakened in the face of political reality. Political practice determined the fate of the relationship between the president and the parliament/government. It proved that the powers of the particular bodies were determined not so much by formal rules, but by the exuberance of the initiated process of system transformation,<sup>31</sup> during which the institutional setup had been subject to many significant changes.

Political fact and the acceleration of the process of changes after 4 June 1989 substantially influenced the governance style of President Wojciech

<sup>30</sup> A. Przeworski: *Democracy and the market. Political and economic reforms in Eastern Europe and Latin America*. Cambridge 1991, pp. 12–13.

<sup>31</sup> J. Zielonka: "New Institutions in the Old East Bloc." In: *The Global Resurgence of Democracy*. Eds. L. Diamond, M.F. Plattner. Baltimore—London 1996, pp. 211–212.

Jaruzelski. The actual dimension of the exercise of power by the head of state was essentially different from that which was designated by the provisions of the constitution. This discrepancy was, in turn, of crucial importance to the emergence of a completely different model of relationship between the parliament, the president and the government, than the existing formal rules suggested. The fact that the president very sparingly used the remedies at his disposal (for example, only twice did he benefit from the right of legislative initiative and once from the veto) nor did he have any ambition to act as the head of the executive, leaving the government with the prime minister responsible for it, was an important premise for the recognition that the political regime as understood in the strict sense, demonstrated features which were more characteristic for parliamentarism than for semi-presidentialism. A significant deficit of democratic mechanisms did not, of course, make it possible to make a unilateral classification of the existing political regime, as understood in the strict sense, in the framework of the traditional models. For this reason, it seems to be more appropriate to point out that the empirical political regime remained to a lesser or greater degree in the logic of one or the other model.

Choosing parliamentarism as a point of reference for the political regime in Poland during the presidency of Wojciech Jaruzelski, is not tantamount to a recognition that parliament had a superior or dominant position in relations with the government and the president. On the one hand, the democratic legitimacy of the Senate was overshadowed by the asymmetrical model of bicameralism, in which the second chamber did not have sufficient powers to play an essential role in the relations with the president and the government. On the other hand, legitimacy issues prevented the Sejm's dominance over the government even though the president did not compete with parliament.

In the first phase of transition, which, by convention lasted from June 1989 until the end of the presidential term of Wojciech Jaruzelski, several events took place, which were not conducive to the strengthening of the position of the Sejm in relation to the government. First of all, actual alternation of power took place, in which the existing opposition became not only involved in governing, but also took over leadership and responsibility for its course. At the same time, an oversized coalition, the parliamentary representation of the government, was created, which was made up of participants, who had so far been competing with each other. In this way, the division between those in power and the opposition, which is the essence of political competition at the level of parliament, became blurred. Thanks to this, the government won an advantage over parliament as it could now begin to play the role of the initiator of reforms. Such a scenario received wide public support, which the cabinet of Tadeusz Mazowiecki enjoyed especially during the

first few months of its functioning. Its source, to a large extent, was a legitimacy deficit, which the two other organs, namely the Sejm and president, suffered from.<sup>32</sup>

It is also important to emphasize the fact that at the end of 1989, and especially in 1990 and again in 1991, numerous changes took place, which substantially modified the structure of parliament in political terms. These processes covered political formations which had originated in the People's Republic of Poland, as well as in the former solidarity opposition. As a result, the sphere of political competition which was forming in the parliamentary arena was becoming increasingly more complicated. The pending political fragmentation in the Sejm was not conducive to the development of clear patterns of competition and cooperation between parliamentary bodies. This was one of the essential elements weakening the position of the Sejm in relation to the government. The process of political fragmentation taking place in the Sejm meant that it was not able to enforce the political accountability of the government.

Finally, attention is also drawn to the conflict, which occurred at the beginning of 1990 between the prime minister Tadeusz Mazowiecki and Lech Wałęsa, the leader of Solidarity. This followed the break-up of the PZPR, although symptoms of tension between the two politicians had already begun precipitating earlier. The conflict had its sources in Lech Wałęsa's desire to dominate the political scene. This of course would mean a weakening of the role of prime minister, and Tadeusz Mazowiecki was not going to give in. Over time, this conflict resulted in serious consequences for the former Solidarity opposition. It led to the so-called "war at the top." The characteristic fact about the dispute was that it was played out outside the parliament, but its effects had an impact on the shape of the parliamentary arena, where OKP split into supporters of the prime minister and of the Chairman of Solidarity.

The described events and processes prevented the Sejm from effectively controlling the government. The latter maintained an autonomous position, although there were numerous attempts at challenging it by actors functioning outside the parliament. At the same time, parliament supported the government in carrying out reforms. In general, this situation did not lead to any major conflict and laws were usually adopted with a significant majority. Some of the symptoms of the crisis between the Sejm and the government were noticed only when the "war at the top" began to stir up emotions among the MPs.

Recognizing, therefore, that in 1989–1990 the political regime *in sensu stricto* functioned in the logic of parliamentarism, we need not forget about

---

<sup>32</sup> A. Antoszewski: *Wzorce rywalizacji politycznej we współczesnych demokracjach europejskich*. Wrocław 2004, p. 167.



the context, in which it operated. The uniqueness of the situation was based on the fact that political practice operated outside of the formal rules found in the constitution. Therefore, the actual relationships between the parliament, the president and the government were more a manifestation of the search for an optimal model of mutual coexistence than an expression of the implementation of the constitutional standard. The actual weakness of the institution of the president, which was one of the most recognizable elements of the emerging institutional system, led to the recognition of parliamentarism as a democratic political regime model which best fitted the existing situation. At the same time, the relationship between parliament and the government did not fully meet the principles of parliamentarism. This was primarily due to the fact that parliament was unable to fulfil all the functions it was required of by the government. This was due both to formal institutional constraints, but above all it was caused by issues of legitimisation and by political considerations. In this way, the government's autonomy potential increased with regard to parliament, which meant that the primary feature of parliamentarism expressed by the government's accountability before parliament had a completely different meaning from that which is known in western European democracies. It is therefore difficult to accept that the existing political regime at that time corresponded to the parliamentary model, which is why it is more appropriate to treat it as a regime which functioned in the logic of parliamentarism. The mechanisms characteristic for this model of democratic political regime formally existed, their actual implementation, however, required knowledge of the situational context. Most importantly, attention needs to be drawn to the fact that the institutional dimension of the relationship between the legislative and executive authorities was modified by the political situation which had emerged independent of the arrangements made at the Round Table. Also, the strengthening of the political centre, which was not related to any of the branches of power, also had a considerable impact on the situation. This applies to the person of Lech Wałęsa, whose political position and aspirations, to a large extent determined the functioning of both the legislature and the executive. This in turn consolidated the trend to concentrate power, which resulted in the strengthening of presidential authority.

The dynamically changing situation on the political scene in 1990 led to the crystallisation of new standards of political competition, in which antagonisms began appearing between the representatives of Solidarity. Disputes began to develop not only with regard to the pace of further change, but also concerning system issues, which in turn had an impact on the characteristics of the political regime *in sensu stricto*. An equally significant factor in shaping the actual relationship between the parliament, the president and the government became the ambitions of the individual political actors. Their

actions often resulted in a pursuit to extend their individuals powers to as wide an extent as possible. In this situation, it was difficult to build an institutional system on the basis of one of the traditional, democratic political regime models. The characteristics of competition in this area indicated that further formation of hybrid solutions was to take place.

The presidency was key in the dispute about the pace of change. The issue of the office of president in 1990 involved two essential considerations. Firstly, it was directly related to the whether the execution of the Round Table arrangements were to be pursued or dropped. Secondly, since the office of president is held by one person, the battle for the position also meant a competition for political leadership, which in conditions of a “war at the top” took on particular importance. Evidence of breaking away from the legacy of the Round Table was the resignation from the further exercise of the office of president by Wojciech Jaruzelski, submitted in September 1990. At the same time, the rules for the presidential election were changed. For the first time in the history of Poland, the head of state was to be chosen in elections by direct universal suffrage.

The new way of election of the head of state is considered one of the most important decisions, given the president’s impact on the shaping of the political regime *in sensu stricto*. On the one hand, the wide range of powers of the president justified why the election was to be carried out directly by the people, while on the other hand, the adopted method of conducting the presidential election led to the expectation that the head of state would be active and effective in his actions, all the more that the constitution provided him with significant powers. Of course, some of the competences assigned to this institution lost importance as a new political setup had formed after the parliamentary elections of June 1989, however, the potential power of the president was still significant.

A change in the way the head of state was elected could be read as an announcement of a substantial modification of the relationship between the president and government (prime minister). The constitutional amendment itself only determined the direction of the evolution of the political regime *in sensu stricto*, and did not define its ultimate character. It cannot, however, be forgotten that the different offices are run by people, and the behavioural aspects of political leadership can modify the constitutional standard,<sup>33</sup> which was reflected by the governing style Wojciech Jaruzelski demonstrated as president. Nevertheless, the fact that the political centre of gravity would shift within the executive after the first universal presidential election was almost a given. Decisive in this respect were not institutional issues, but the

---

<sup>33</sup> P. Winczorek: “Subiektywne spojrzenie na przemiany ustrojowe lat 1989—2009.” *Ruch Prawniczy, Ekonomiczny i Socjologiczny* 2009, Vol. LXXI, issue 2, pp. 36—37.

fact that the competition for the office of president became the final struggle for political leadership between Lech Wałęsa and Tadeusz Mazowiecki.

The presidential election in 1990 ended with the victory of Lech Wałęsa. However, this was not as big a surprise as the electoral failure of the prime minister Tadeusz Mazowiecki. The fact that he lost with Stanisław Tymiński, an obscure secondary candidate, made him resign from further exercise of his office. In this situation, the asymmetrical bicameralism model, combined with a weak, in legitimacy terms, the Contract Sejm, made the head of state the most qualified entity to take a dominant position in the parliament-president-government setting. As a consequence, after the presidential election of 1990, the political regime *in sensu stricto* entered a new phase of development. In the years 1989–1990, the regime operated in the logic of parliamentarism, only to undergo presidentialisation after the 1990 election. Generally speaking, under the existing model, the process involved the actual strengthening of the position of the organs of the executive in relation to the legislature, which was particularly true for the monocratic body.<sup>34</sup> Since the beginning of 1990, this was facilitated by both the institutional standards encoded in the applicable laws as well as by the situational context. As a consequence, the second stage of the democratic transition can be analysed in terms of the semi-presidential model, of course, with due consideration of the existence of the contextual constraints arising from progress made in the implementation of democratisation processes. Still, all the four constitutional features of the semi-presidential regime referred to at the beginning of this paper can be found both in the existing constitutional rules and in political practice. First of all, the president was elected by universal suffrage for a fixed term. Secondly, the executive had a dualistic structure and was characterised by a separation of powers between the president and the government headed by the prime minister. Thirdly, there were both elements indicating that the government was accountable to the parliament (the Sejm) and the president. Fourthly, the scope of the powers of the president gave him policymaking potential, which he chose not to abandon.

The functioning of a formal institutional arrangement was significantly modified by the situational context. The president occupied a dominating position within the executive, whilst the subjectivity of the government led by the prime minister Jan Krzysztof Bielecki, was significantly limited.<sup>35</sup> The dualistic structure of the executive in practical terms began to fade away, and the prime minister came to be more of an associate of the president, who in turn sought to play the role of the head of the executive. Such an arrangement

<sup>34</sup> Th. Poguntke, P. Webb: "The Presidentialization of Politics in Democratic Societies: A Framework for Analysis." In: *The Presidentialization of Politics. A Comparative Study of Modern Democracies*. Eds. Th. Poguntke, P. Webb. Oxford 2005, pp. 1–24.

<sup>35</sup> A. Dudek: *Historia polityczna Polski 1989–2012*. Kraków 2013, p. 147.

is not unfamiliar in democratic regimes with a semi-presidential inclination. It is something natural, especially when the president and the parliamentary majority represent the same political option. What made the situation in 1990—1991 in Poland different, was that the cabinet did not represent any specific party (more than half of the 19 ministers did not belong to any political party<sup>36</sup>), and the president was not interested or simply was unable to form his own political base. Therefore, the actual relationship between the executive authorities was determined by the legitimacy dominance of the president and his power, which was based on his personal skills and the formal competences vested in him. The political regime *in sensu stricto* (taking into account any democratic shortcomings typical for the transition period) functioned as highly presidentialized semi-presidential regimes<sup>37</sup> or simply as its presidential-parliamentary variety. The president's domination over the government was clear, but at the same time, the Sejm did not lose its ability to hold the cabinet accountable, which was best evidenced by two attempts made by MPs to dismiss it in 1991.<sup>38</sup> Both of them proved to be ineffective, which, however, did not change the fact that the mechanisms ensuring accountability of the government was not mere fiction.

Nevertheless, political practice clearly showed that there emerged a system in which the government of Jan Krzysztof Bielecki was formally based on parliamentary investiture, whereas the key subject supporting its activities and preserving its existence was not the Contract Sejm, but president Lech Wałęsa. Not only was the establishment of this particular cabinet not a consequence of the formation of a stable political setup in parliament, there was also a lot of tension among the representatives of the parties forming the government and it was not uncommon for its members to criticise the actions of the body they represented.<sup>39</sup> In a situation in which the government did not have support of the greater part of parliament, and in the face of the weakness of the political parties, it was natural for the government to end up under the wings of the president. The latter in turn accepted the arrangement, as it enabled him to dominate under a dualistic executive.

In turn, taking into account the relationship between the president and the Sejm, the president's superiority of legitimacy is noticeable. The president attempted to use his constitutional powers to exert an impact on the Sejm, which, however, did not mean that the latter was dominated by the president.

<sup>36</sup> M. Podolak: "Rząd Jana Krzysztofa Bieleckiego (12 I—5 XII 1990)." In: *Gabinety koalicyjne w Polsce w latach 1989—1996*. Eds. M. Chmaj, M. Żmigrodzki. Lublin 1998, pp. 53—54.

<sup>37</sup> R. Elgie: "A Fresh Look at Semipresidentialism. Variations on a Theme." *Journal of Democracy* 2005, Vol. 16, No. 3, pp. 102—109.

<sup>38</sup> W. Jednaka: *Gabinety koalicyjne w III RP*. Wrocław 2004, pp. 208—209.

<sup>39</sup> M. Podolak: "Rząd Jana Krzysztofa Bieleckiego...", p. 69.

Although the president maintained a dominant position within the executive, his dealings with the parliament should rather be perceived more in terms of a transactional relationship. Although the president did make use of his constitutional powers enabling him to influence the course of the work of the Sejm (legislative veto, legislative initiative), his activity did not always produce the desired effect. Examples of this include his lost legislative battle for the adoption of a new parliamentary election law<sup>40</sup> or his failed pursuit of granting the government the right to issue decrees. Political practice and the institutional constraints Lech Wałęsa failed to cope with, led him to attempt to formally strengthen the power of the president, which was reflected, among others, in the draft of the new constitution he put forward.

## Conclusion

The dynamics of change of the political regime *in sensu stricto* in the period of transition, is perfectly shown by the dependencies between institutions and political actors. On the one hand, the institutions, which restricted the actions of the actors (though they often approached formal restrictions very casually), delimited the sphere of their activity, while on the other hand, the political actors, in the pursuit of their own system preferences, played a key role in shaping the political institutions. A very important factor in the evolution of the political regime *in sensu stricto* in 1989—1991 were unplanned facts and political events, which required the participants of political competition to permanently adapt to the changing conditions. This, in turn, contributed to the inconsistencies in the political system and the emergence of hybrid solutions, while political practice, reflecting, *inter alia*, the behavioural aspects of political leadership, was decisive in determining the real sense of the institutions of the political system. Most important of all, however, is the fact that in the first period of democratic change, a certain way of perceiving the political regime *in sensu stricto* was imposed, which influenced the direction of its transformation, and which was defined by the inability to opt out of certain institutions, as well as by the need to modify other system mechanisms.

---

<sup>40</sup> M. Chmaj: *Sejm „kontraktowy” w transformacji systemu politycznego Rzeczypospolitej Polskiej*. Lublin 1996, pp. 134—147.